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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,707	02/25/2004	Zidu Ma	67,097-023; EH-11106	3642
26096	7590	07/13/2009		
CARLSON, GASKEY & OLDS, P.C.			EXAMINER	
400 WEST MAPLE ROAD			FORTUNA, ANA M	
SUITE 350			ART UNIT	PAPER NUMBER
BIRMINGHAM, MI 48009			1797	
MAIL DATE		DELIVERY MODE		
07/13/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* ZIDU MA, LOUIS J. SPADACCINI, HE HUANG, HARRY  
CORDATOS, FOSTER PHILLIP LAMM, and INGO PINNAU

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Application No. 10/786,707  
Technology Center 1700

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Mailed: July 13, 2009

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Before Deborah L. Perry, Supervisory Paralegal Specialist, Review Team.  
Perry, Supervisory Paralegal Specialist, Review Team.

**ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER**

This application was electronically received by the Board of Patent Appeals and Interferences on June 29, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on March 30, 2009, in response to the Examiner's Answer mailed January 30, 2009.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed June 25, 2009, was an improper acknowledgment of the Reply Brief, as it address points raised in the Reply Brief. Addressing points raised in the Reply Brief constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) vacate the Communication mailed June 25, 2009;
- 2) generate and mail either:

a) a revised Communication properly acknowledging to the Reply

Brief dated March 30, 2009, in accordance with MPEP§ 1208, part II.;

OR

b) issue a Supplemental Examiner's Answer with the required

signature (Technology Center Director or designee), if appropriate;

and

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP/bar

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